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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,328	08/23/2001	Chris Scotto	426882000600	9977

29638 7590 11/10/2005

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EXAMINER

NGUYEN, TAN D

ART UNIT PAPER NUMBER

3629

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/938,328	Applicant(s) SCOTTO ET AL.	
	Examiner Tan Dean D. Nguyen	Art Unit 3629	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

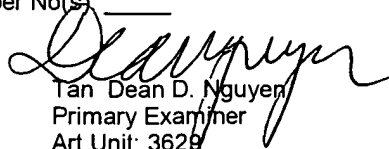
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) _____
 13. ☐ Other: _____.


 Tan Dean D. Nguyen
 Primary Examiner
 Art Unit: 3629

Continuation of 11. does NOT place the application in condition for allowance because:

1) Claim objection "New Matter": Applicant's comment that [0066] (e.g., "web-based screen demonstration", and [0068] which deals with "post-launch business operations" ... "gathering customer feedback and suggestion" provides support for claim 1 (a) which deals with launching the business and "said 1st stage approach including the steps of presenting an initial customer interface and gathering customer feedback" is not persuasive because: (1) [0068] deals with the "post-launch" business operations and not 1st launching the business, and (2) "web-based "screen demonstration"" does not read over "the steps of presenting an initial customer interface and gathering customer feedback"; and (3) [0077] of "confirming and/or refining the targeted customer experience and relationship" does not read over "the step of refining said customer interface based on said customer feedback". There is nothing about customer interface in the cited sentence in [0077].

2) Claim objection "Improper Dependent Form": Applicant's comment that dependent claims 2-20 further limit claim 1 by reciting additional features that are not expressly required by claim 1 is noted, however, this is not found persuasive because claim 1, step (a) calls for performing the 1st approach including steps (2) of : (1) presenting an initial customer interface and (2) gathering customer feedback. Dependent claims further limit step (a) of "performing the 1st stage approach" should further limit the main features of (a) above or relate to features of (a) above to receive patentable weight. There are no discussion of the relationship of items of claim 1 steps (a) 1st and 2nd steps with dep. claims 2-20. This is a method claim and the steps have to be related together or having relationship with each other to fulfill the scope of the claim.

3) Claim Rejections -35 USC 101. Applicant's comment is not persuasive. Furthermore, upon reviewing the claim language, it appears the claim does not appear to overcome the 2nd prong test which concrete and tangible result. It's not clear what the scope of the claim. If assume that the initial customer interface (point, means of interaction between 2 groups) like a "screen" or "screen demonstration", it's not clear how the 2nd step of "refining" the "screen" or "screen demonstration", based on the customer feedback, achieve the scope of the claim which is "guiding a business after an initial funding stage". These steps are merely mental steps and does not produce concrete and tangible results.

4) Claims Rejections - 112, 2nd paragraphs. Applicant's comments are not persuasive and the rejections are maintained. Claim 1 is still vague and indefinite to the examiner. It's not clear the meaning of "initial interface", are there several interfaces involved? where is the 2nd interface? The step of "gathering customer feedback" is vague because it's not clear what feedback is gathering? There is no step for sending inquiry or survey or information to the customer prior to gathering the feedback, so it's not clear what this step trying to gather, any kind of information from the customer? How he guiding a business is carried out? Step (b) is vague. Is it at least one of (a) maturing the business and (b) guiding the business? or one of "maturing the business and guiding the business". It's not clear how the refining an interface (screen/monitor) is carried out and how it would help to mature the business. "Presenting a screen or screen demonstration" then "refining the screen or screen demonstration" does not produce a clear and concrete results for guiding a business after initial funding state.

5) Claim Rejections - 103 Rejections:

Applicant's comment the 1st stage "gathering customer feedback", and 2nd stage "refining the interface ???" or improving whatever problems mentioned from the customer feedback is not taught by Article 1998 or Young et al is not persuasive, Article 1998 mentions a problem of poor marketing prior to IPO stage and Young et al discloses the steps of improving the poor marketing by surveying the customer, gathering customer feedback, then improving or solving problems based on the customer feedback. Clearly the 1st stage or surveying the customer and the 2nd stage of solving the problems are inherently included in the combination of Article 1998 and Young et al. As for the arguments with respect to the dep. claims, 1st they have been objected as indicated above and 2nd, they are inherently included or fairly taught in Article 1998 in view of Young et al. Moreover, these are merely business management methods / parameters and the adjustments of these well known parameters depending on the types of business, current economic environment, competition levels, cost, money available, marketing conditions, etc. and would have been obvious in view of the teachings of Article 1998 and Young et al.